

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	Case No.
vs.	)	12-CR-3045-MDH-1
	)	
	)	
CHARLES FREDERICK WHITE,	)	
	)	
Defendant.	)	

CHANGE OF PLEA  
BEFORE THE HONORABLE M. DOUGLAS HARPOOL  
WEDNESDAY, FEBRUARY 8, 2017; 3:52 P.M.  
SPRINGFIELD, MISSOURI

APPEARANCES:

FOR THE PLAINTIFF:

MR. TIMOTHY A. GARRISON  
MS. JOSEPHINE LARISON  
UNITED STATES ATTORNEY'S OFFICE  
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Springfield, MO 65806

FOR THE DEFENDANT:

MR. JASON COATNEY  
LAW OFFICES OF JASON COATNEY  
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COURT REPORTER:

MS. JEANNINE RANKIN, RPR, CSR  
UNITED STATES DISTRICT COURT  
222 N. Hammons Parkway  
Springfield, MO 65806

Proceedings recorded by mechanical stenography;  
transcript produced by computer.

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USA v CHARLES F. WHITE

CASE NO. 12-CR-3045-MDH-1

CHANGE OF PLEA

February 8, 2017

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THE COURT: We are here in United States v. Charles Frederick white. The Court had originally scheduled a pretrial conference at this time. It's my understanding that the parties have reached a plea agreement to resolve the issues pending in this case.

Who appears on behalf of the United States?

MR. GARRISON: Tim Garrison and Jodi Larison, Your Honor.

THE COURT: On behalf the defendants?

MR. COATNEY: Jason Coatney and Don Cooley.

THE COURT: Mr. White, my name is Doug Harpool. You go ahead and stay seated, if you want to, if it's more comfortable for you.

I'm the judge that's going to preside over your case.

MR. COATNEY: Your Honor, Mr. White has pretty good hearing but his eyesight is very bad, so he's just looking in your direction; he can't see you very well.

THE COURT: As long as he can hear.

THE DEFENDANT: Yeah.

1 THE COURT: Nobody really wants to see what I look  
2 like anyway, sir. It's kinda ugly. You just stay there, and  
3 as long as you can hear me, that's what counts. Okay?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: You stop me if you can't hear something.

6 I've been told that there's been reached a plea  
7 agreement and one of the things I have to do as a judge is  
8 decide whether I'm going to approve that plea agreement, and  
9 so I have to ask you a bunch of questions and make sure that  
10 you understand what's in the plea agreement and that the  
11 circumstances under which it was negotiated are appropriate  
12 and then I can make a final decision on whether to accept it.  
13 Okay?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Now, in order to do that I have to take  
16 testimony from you, so I'm going to place you under oath and  
17 then I'm going to ask you some questions. I want you to  
18 understand that you don't have to answer any question. If you  
19 don't answer it, it might affect my ability to accept the plea  
20 agreement, but you don't have to. But if you don't understand  
21 a question, just ask me or your lawyers to explain it to you.  
22 Okay?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. If you'll raise your right  
25 hand best you can.

1 (Defendant duly sworn by Court.)

2 THE COURT: State your name for the record.

3 THE DEFENDANT: Charles F. White.

4 THE COURT: Mr. White, I've been presented a written  
5 plea agreement in your case. Have you seen that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Have you read it?

8 MR. COATNEY: Your Honor, again, his eyesight is  
9 pretty bad. We've gone through it and I've explained it to  
10 him.

11 THE COURT: Has it been read to you? I mean, the  
12 lawyers have gone through and explained the various paragraphs  
13 with you?

14 THE DEFENDANT: They've explained it, yes.

15 THE COURT: I see a signature on Page 14 under --  
16 there's typed the name Charles Frederick White and there's a  
17 signature above that. Did you sign that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. When you signed it, did you  
20 feel like you understand the terms of the plea agreement?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: All right. Now, some of these questions  
23 are going to sound kind of odd to you but the federal rules  
24 require me to ask them, so I'm not insinuating anything. But  
25 as you sit here in front of me, are you under the influence of

1 any street drug?

2 THE DEFENDANT: No, sir.

3 THE COURT: Any prescription medication that makes  
4 it hard for you to understand?

5 THE DEFENDANT: No, sir.

6 THE COURT: You under the influence of any alcohol?

7 THE DEFENDANT: No, sir.

8 THE COURT: Do you suffer any mental illness?

9 THE DEFENDANT: No, sir.

10 THE COURT: Do you believe that you're competent to  
11 participate in this hearing?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you believe that you were competent  
14 to enter -- to make a decision to change your plea?

15 THE DEFENDANT: I'm competent to what?

16 THE COURT: To make the decision to change your plea  
17 in this case?

18 THE DEFENDANT: Why would I want to do that?

19 THE COURT: Well, we're here. I thought you were  
20 going to change your plea to guilty?

21 THE DEFENDANT: Oh. I'm okay.

22 THE COURT: All right. Well, you know,  
23 previously -- and you may not even remember, but some time ago  
24 you entered a plea of not guilty.

25 THE DEFENDANT: Yes, sir.

1 THE COURT: And today we're here because I've been  
2 given a plea agreement where you're going to plead guilty and  
3 I'm trying to decide whether to let you do that. But,  
4 technically, in the eyes of the law that previous plea is the  
5 one that's in place until I accept this. Okay?

6 THE DEFENDANT: Okay.

7 THE COURT: Now, has anybody threatened you or  
8 somebody you care about with some type of physical injury or  
9 harm to try to threaten you into signing this plea agreement?

10 THE DEFENDANT: No, sir.

11 THE COURT: Anybody make any promises to give money  
12 or a job to you or someone you care about in order to persuade  
13 you into signing this agreement?

14 THE DEFENDANT: No, sir.

15 THE COURT: Is this a plea agreement that you think  
16 is in your best legal interest given the circumstances?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is it an agreement you've entered into,  
19 then, voluntarily?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: I'm going to talk to you about some of  
22 the specific provisions of the agreement. I'm not going to go  
23 over every paragraph because your lawyer did but there are a  
24 few things I want to make sure you understand.

25 Under Paragraph 2 of this agreement, if I accept it

1 then you will be admitting that you are guilty by pleading  
2 guilty to Count 1 of the superseding indictment and that  
3 charges you with conspiracy to manufacture a thousand or more  
4 marijuana plants.

5 Do you understand if I accept this plea agreement  
6 that you'll be admitting that you're guilty of that crime?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, Congress and the president decide  
9 what the possible punishment is for crimes, federal crimes,  
10 and in Paragraph 5 of this agreement it's explained that for  
11 the crime of conspiracy to manufacture a thousand or more  
12 marijuana plants the minimum penalty the Court could impose is  
13 a prison term of 10 years and supervised release for at least  
14 five years, that the maximum penalty the Court could impose is  
15 imprisonment for the rest of your life, supervised release for  
16 the rest of your life, and a \$10 million fine. In addition,  
17 you'd have to pay a \$100 special assessment. The crime is a  
18 Class A felony. Are you aware of all those facts?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Now, what I just read you is the  
21 authorized punishment and there's a big range, from ten years  
22 to life. So at sentencing I'm the one that will make the  
23 decision on what your sentence ought to be within that range  
24 and in doing so I'll look at the U.S. Sentencing Guidelines.  
25 All right? That means I give you an offense level based on a

1 big thick book and I give you a criminal history based on that  
2 book and then we apply a chart and we arrive at what's called  
3 a guideline sentence. The reason we do that is the Supreme  
4 Court's told me to. It used to be that sentence was mandatory  
5 but it's not anymore but I do have to calculate it and  
6 consider it when I make a sentencing decision for you. All  
7 right?

8           Now, what I want you to understand today is no  
9 matter what somebody's told you about that sentence or the  
10 guideline or the calculation, that's just a guideline; your  
11 actual sentence can be above that guideline or below that  
12 guideline as long as it's something that the Congress has  
13 authorized me to do. Do you understand that?

14           THE DEFENDANT: Yes, sir.

15           THE COURT: Now, in federal court there's no parole.  
16 Do you understand that?

17           THE DEFENDANT: Yes, sir.

18           THE COURT: If on the day of your sentencing you  
19 don't like the sentence I give you, that won't be an excuse  
20 for you to try to withdraw from this plea agreement. Do you  
21 understand that?

22           THE DEFENDANT: Yes, sir.

23           THE COURT: Now, I mentioned earlier something  
24 called supervised release. That's a period of time after you  
25 complete your jail -- prison term when you have some rules you



1 have to follow. If you fail to follow those rules, you can  
2 end up just having to go right back to prison. Do you  
3 understand that?

4 THE DEFENDANT: Oh, yeah.

5 THE COURT: As we sit here today, I want to make  
6 sure you understand that you do have a right to a jury trial.  
7 It's scheduled next Monday. At that trial we'd have 12 jurors  
8 and the government would have to convince all 12 unanimously  
9 that you're guilty or you wouldn't be guilty in the eyes of  
10 the law. Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: The lawyers would be provided for you  
13 and your lawyers could try to cross-examine all the witnesses  
14 of the government and try to confront and impeach their  
15 evidence and your lawyers could call witnesses to testify for  
16 you and they could present evidence for you. If a witness  
17 didn't want to show up, I could even try to force them to show  
18 up by use of -- to compel with the powers of the Court. You  
19 understand all that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Now, at that trial if you wanted to get  
22 on the stand and testify, that would be your right, but if you  
23 wanted to remain silent, that also would be your right. I  
24 would protect that right, wouldn't let anybody make an adverse  
25 comment about it and would even tell the jury they shouldn't

1 reach any adverse inference from your decision to take  
2 advantage of that constitutional right. Do you understand  
3 that?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: At trial if I made a mistake on a ruling  
6 of law or evidence, these fine lawyers you have, they could  
7 appeal me to a higher court and maybe get it reversed, you  
8 might get a new trial. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Now, if I accept your plea agreement,  
11 you're not going to go to a jury trial; your guilt will  
12 already be established and so we won't have a jury trial to  
13 determine your guilt. You understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: Paragraph 15 of this agreement you give  
16 up certain rights that you might have to appeal or to file a  
17 lawsuit later if convicted and challenge the validity of your  
18 conviction. That happens sometimes when people go to trial,  
19 are found guilty and it happens some other times, too. Do you  
20 understand that you'll be giving up some of your appellate  
21 rights and post-conviction rights in Paragraph 15 of this  
22 agreement?

23 THE DEFENDANT: Yes, sir. We have a motion.

24 MR. COATNEY: Your Honor, this is a conditional  
25 plea. The second paragraph of 15 allows Mr. White to appeal

1 two pretrial rulings that were adverse to his position, sir.

2 THE COURT: You're not giving up all your rights of  
3 appeal. Those are specifically reserved in here. All right?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: Now, you got a couple lawyers sitting  
6 there and they've been working for you. Have you talked this  
7 plea agreement over with them?

8 THE DEFENDANT: Yes, sir, I did this afternoon.

9 THE COURT: Have you asked them some questions you  
10 had?

11 THE DEFENDANT: Did I what, sir?

12 THE COURT: Did you ask them some questions?

13 THE DEFENDANT: Oh, yeah.

14 THE COURT: Were they able to answer them?

15 THE DEFENDANT: Yes.

16 THE COURT: Have you got any questions that haven't  
17 been answered about this plea agreement?

18 THE DEFENDANT: I think we're okay.

19 THE COURT: All right. Are you satisfied with the  
20 amount of time you've had with your lawyers?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Are you satisfied with the services  
23 they've provided you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: In order to accept a plea agreement, I

1 have to find that there is a factual basis to support your  
2 decision to plead guilty. We don't let people plead guilty  
3 unless we think there are some facts that might lead them to  
4 being convicted. The government in Paragraph 3 has put some  
5 of the facts that they think they could prove if you went to  
6 trial. Those facts are the ones they think would lead to your  
7 conviction. Now, obviously if you went to trial, it would be  
8 up to a jury whether they believed them or not, but today I  
9 want to know, do you think any of the facts listed in  
10 Paragraph 3 are incorrect or inaccurate?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: You think Paragraph 3 is correct?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Paragraph 3 says that you had two sheet  
15 metal buildings on property in rural Polk County, Missouri,  
16 and that you installed lights, watering and fertilizing  
17 equipment, containers, planting medium and other equipment for  
18 the purpose of growing marijuana plants and that you had more  
19 than a thousand plants. Is that all true?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Any further record under Rule 11 which  
22 the government wants the Court to make?

23 MR. GARRISON: No, Your Honor. Thank you.

24 THE COURT: Mr. Coatney or Mr. Cooley, any further  
25 record you want me to make?

1           MR. COATNEY: Just out of an abundance of caution,  
2 Your Honor, I think what I'd point out is the indictment under  
3 Count 1, superseding indictment suggests that the conspiracy  
4 lasted through January of 2013 and the -- this -- the plea  
5 agreement suggests it was March 21 of 2012. It's the plea  
6 agreement that we would suggest should be controlling here.  
7 Mr. Bearden had some other conduct that continued on until  
8 2013 but I think that that was a little bit outside the  
9 conspiracy, two counts involving guns, but this would control  
10 even though it's just a little bit tweaked from the  
11 superseding indictment.

12           THE COURT: What you're telling me, in the factual  
13 basis your client is agreeing that the conspiracy continued to  
14 March 21, 2012, not necessarily the date contained in the  
15 indictment?

16           MR. COATNEY: Correct.

17           THE COURT: Is that all right with you,  
18 Mr. Garrison?

19           MR. GARRISON: It is, Your Honor. If the Court  
20 cares --

21           THE COURT: Proceed.

22           MR. GARRISON: What happened after the initial  
23 indictment, Mr. White's co-defendant, Anthony Bearden, was  
24 engaged in additional criminal activity, there was a  
25 superseding indictment brought and the range, the date range

1 expanded to include the conduct that Mr. Bearden was involved  
2 with.

3 THE COURT: All right. Thank you. Good that's on  
4 the record and clear.

5 MR. COATNEY: Thank you, sir.

6 THE COURT: Mr. White, I've asked you all the  
7 questions I want to -- unless you have something else?

8 MR. COATNEY: I was just going to say, no other  
9 issues under Rule 11, Your Honor.

10 THE COURT: Okay.

11 Mr. White, I've asked you all the questions that I  
12 need to ask you in order to make a ruling. After I've asked  
13 you the questions and reminded you of the consequences and  
14 stuff, do you still want me to approve this plea agreement?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you still think it's in your legal  
17 best interest?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you still want to plead guilty to the  
20 crime of conspiracy to manufacture a thousand or more  
21 marijuana plants?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: You want to plead guilty to that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Is that because you are guilty of that

1 crime?

2 THE DEFENDANT: Pardon me?

3 THE COURT: Is that because you are guilty of that  
4 crime?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: The Court finds that the defendant has  
7 been competent to participate in this hearing and to enter  
8 into the plea agreement and to the change of plea contained  
9 therein. The Court finds that the defendant entered into the  
10 plea agreement and the guilty plea understandingly, knowingly  
11 and voluntarily. The Court finds that the guilty plea and the  
12 plea agreement have been entered into after the defendant  
13 received full, competent and capable services and advice of  
14 legal counsel and after the defendant was advised fully of the  
15 consequences of entering into the plea and the plea agreement.  
16 The Court finds that there is a factual basis for the plea.  
17 The Court accepts the plea agreement and the guilty plea  
18 contained therein. And defendant's -- specifically accept the  
19 plea of guilty to the crime of conspiracy to manufacture a  
20 thousand or more marijuana plants as alleged in Count 1 of the  
21 superseding indictment with the limitation on the date that we  
22 discussed earlier. I'm going to order a presentence  
23 investigation.

24 They'll write a report now and your lawyers and you  
25 will get to look at it. If you think they made a mistake in

1 the report, you and your lawyer gets to object. That report  
2 is going to tell us a lot about your criminal history, your  
3 background, lots of things like that. When that's done, if  
4 the objections aren't resolved, I'll rule on them later at  
5 your sentencing hearing. At your sentencing hearing I'll  
6 remind you of what the president and Congress have authorized  
7 for punishment for this crime, I'll then calculate those  
8 sentencing guidelines I told you about earlier. The lawyers  
9 will then get to argue about what your sentence ought to be  
10 and they can talk about whether I should depart or vary from  
11 the guidelines and talk about factors that are listed in the  
12 law at a place called Title 18, Section 3553.

13           After the lawyers have said their piece, I'll give  
14 you a chance to say something to me, if you want to. You  
15 don't have to, you can remain silent, but if you want to say  
16 something at your sentencing, I'll give you that chance before  
17 I make a final decision. Then at the conclusion of your  
18 sentencing hearing, I'll announce what your sentence is going  
19 to be.

20           That hearing will take place when we've gone through  
21 all the process steps that I've told you about. I can't tell  
22 you exactly what date that will be because it takes various  
23 amounts of time to complete each of those processes. When  
24 that's all done, we'll have your sentencing hearing. When we  
25 have your sentencing hearing, till then you'll stay in the



1 local facilities like you have been, the jails. But when you  
2 ultimately get sentenced, you'll be transferred to a facility  
3 of the Bureau of Prisons, but that won't occur until after  
4 sentencing. Okay?

5 THE DEFENDANT: Yes, sir.

6 Is there any way this can be fast-tracked in any  
7 way?

8 THE COURT: Well, we --

9 MR. COATNEY: I spoke to Mr. Schepers and we're  
10 going to move at all haste. We'll notify the Court when  
11 things are ready to roll. He's asking that this move quickly.  
12 Where he's being housed is rough on him, sir.

13 THE COURT: I understand. We have lots of  
14 defendants but we hope -- we'll move this as fast as we can.  
15 Okay, sir?

16 THE DEFENDANT: I understand.

17 THE COURT: Anything further from the government?

18 MR. GARRISON: No, Your Honor. Thank you.

19 THE COURT: Anything further from the defendant?

20 MR. COATNEY: No, Your Honor.

21 THE COURT: I think it goes without saying, the  
22 trial scheduled for Monday will be canceled.

23 MR. COATNEY: Thank you, Judge.

24 THE COURT: We'll be in recess.

25 Good luck to you, sir.

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THE DEFENDANT: Thank you.

(Court stands in recess at 4:12 p.m.)

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CERTIFICATE OF OFFICIAL REPORTER

I, Jeannine M. Rankin, Federal Official Court Reporter,  
in and for the United States District Court for the Western  
District of Missouri, Southern Division, do hereby certify  
that the foregoing is a true and correct transcript of the  
stenographically reported proceedings.

/s/ Jeannine M. Rankin

Date: 10/12/17 Jeannine M. Rankin, CCR, CSR, RPR